

SUBSTITUTE FOR
HOUSE BILL NO. 5101

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.847) by adding section 717.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 717. (1) Subject to the limitations under this section,
2 for tax years beginning on and after January 1, 2024, an employer
3 that is an authorized business may claim a credit against the taxes
4 required to be withheld and remitted to this state under this
5 chapter in an amount equal to the sum of an amount equal to 3% of
6 the employer's qualifying research and development expenses
7 incurred during the calendar year ending with or within the tax
8 year up to the base amount and the product of the employer's
9 qualifying research and development expenses incurred during the

1 calendar year ending with or within the tax year in excess of the
2 base amount, multiplied by the following percentages in the
3 following circumstances:

4 (a) For an authorized business with 250 or more employees,
5 10%. The credit amount calculated under this subdivision must not
6 exceed \$2,000,000.00 per tax year per employer.

7 (b) For an authorized business with less than 250 employees,
8 15%. The credit amount calculated under this subdivision must not
9 exceed \$250,000.00 per tax year per employer.

10 (2) Subject to the limitations under this section, an employer
11 claiming a credit under subsection (1) may claim an additional
12 credit equal to 5% of the qualifying research and development
13 expenses incurred during the calendar year ending with or within
14 the tax year that are in excess of the base amount if the
15 employer's qualifying research and development expenses for which
16 the credit is being claimed under subsection (1) are incurred in
17 collaboration with a research university in this state pursuant to
18 a written agreement between the employer and the research
19 university. In order to claim the additional credit under this
20 subsection, if requested by the department, the employer must
21 provide the department with a copy of the written agreement with
22 the research university. The additional credit allowed under this
23 subsection must not exceed \$200,000.00 per tax year per employer.

24 (3) To be eligible for a credit under this section, an
25 employer must submit, in a form and manner as prescribed by the
26 department, a tentative claim for which a credit under this section
27 is sought to the department on or before March 15 after the
28 calendar year ending with or within the tax year for which the
29 employer intends to submit a claim for the credit. The tentative

1 claim required under this subsection must include, at a minimum,
2 all of the following information:

3 (a) If the credit is to be claimed under subsection (1) (a) or
4 (b).

5 (b) The amount of qualifying research and development expenses
6 incurred for which a credit is being claimed.

7 (c) If an additional credit is to be claimed under subsection
8 (2) for collaboration with a research university.

9 (4) The department shall review all tentative claims submitted
10 under this subsection and if the amount of tentative claims
11 submitted exceeds the amount allowed under subsection (5), the
12 department shall publish a notice on its website notifying
13 claimants of the adjustment to the tentative claims for that
14 calendar year as required under subsection (5).

15 (5) The aggregate amount of credits allowed to be claimed by
16 all employers under this section and all taxpayers under section
17 677 based on qualifying research and development expenses incurred
18 in a single calendar year must not exceed \$100,000,000.00. If the
19 aggregate amount of credits claimed under this section and section
20 677 exceeds \$100,000,000.00, the department shall prorate the
21 amount of credits allowed for each claimant as follows:

22 (a) If the aggregate amount of credits claimed by all
23 employers qualifying under subsection (1) (b) and all taxpayers
24 qualifying under section 677(1) (b) does not exceed \$25,000,000.00,
25 the amount of credits claimed by each of those claimants must not
26 be prorated. However, for employers claiming a credit under
27 subsection (1) (a) or taxpayers claiming a credit under section
28 677(1) (a), the amount of credits claimed must be prorated so that
29 each claimant's allowed credits equal that claimant's pro rata

1 share of the remaining amount of credits allowed to be claimed
2 under this subsection and section 677(5).

3 (b) Except as provided in subdivision (c), if the aggregate
4 amount of credits claimed by all employers qualifying under
5 subsection (1)(b) and all taxpayers qualifying under section
6 677(1)(b) exceeds \$25,000,000.00, the amount of credits claimed by
7 each of those claimants must be prorated so that each claimant's
8 allowed credits equal that claimant's pro rata share of
9 \$25,000,000.00, and the amount of credits claimed by each employer
10 qualifying under subsection (1)(a) or taxpayer qualifying under
11 section 677(1)(a) must be prorated so that each claimant's allowed
12 credits equal that claimant's pro rata share of \$75,000,000.00.

13 (c) If the aggregate amount of credits claimed by all
14 employers qualifying under subsection (1)(b) and all taxpayers
15 qualifying under section 677(1)(b) exceeds 25% of the aggregate
16 amount of credits claimed by all employers under this section and
17 all taxpayers under section 677, then the proration under
18 subdivision (b) does not apply, and the amount of credits claimed
19 by each employer under this section and taxpayer under section 677
20 shall be prorated so that each claimant's allowed credits equal
21 that claimant's pro rata share of \$100,000,000.00.

22 (6) A member of a flow-through entity that submits a claim for
23 a credit under this section is not allowed to claim any portion of
24 that credit. An employer shall not assign or transfer all or any
25 portion of a credit allowed under this section. A credit or any
26 portion of a credit allowed under this section is not assignable or
27 transferable either by agreement or by operation of law.

28 (7) An employer shall, in a form and manner as prescribed by
29 the department, file a claim for a credit under this section with

1 the annual return required under section 711 for the tax year in
2 which a tentative claim for a credit under this section is
3 submitted. The credits allowed under this section must be claimed
4 after all allowable nonrefundable credits under this act. If the
5 amount of the credits allowed under this section exceeds the tax
6 liability of the employer for the tax year, that portion of the
7 credit that exceeds the tax liability of the employer for the tax
8 year must be refunded.

9 (8) As used in this section, "authorized business", "base
10 amount", "Michigan strategic fund", "qualifying research and
11 development expenses", and "research university" mean those terms
12 as defined in section 716.